

EXHIBIT B

UNITED STATES JUDICIAL PANEL
ON MULTIDISTRICT LITIGATION

IN RE: DIGITAL ADVERTISING
ANTITRUST LITIGATION

MDL No. 3010
July 29, 2021
10:43 a.m.

TRANSCRIPT OF ORAL ARGUMENT

Chair: Honorable Karen K. Caldwell, Chair
United States District Court
Eastern District of Kentucky

Members: Honorable Catherine D. Perry
United States District Court
Eastern District of Missouri

Honorable Nathaniel M. Gorton
United States District Court
District of Massachusetts

Honorable Matthew F. Kennelly
United States District Court
Northern District of Illinois

Honorable David C. Norton
United States District Court
District of South Carolina

Honorable Roger T. Benitez
United States District Court
Southern District of California

Honorable Dale A. Kimball
United States District Court
District of Utah

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For States of Texas, et al.

1 We will turn to the next counsel, Mark Lanier.

2 MR. LANIER: May it please the court, thank you, your
3 Honors. My name is Mark Lanier. I represent a number of
4 the -- well, I represent all of the states and the District of
5 Puerto Rico, Alaska, Arkansas, Florida, Idaho, Indiana,
6 Kentucky, Louisiana, Mississippi, Missouri, Montana, Nevada,
7 North and South Dakota, Texas, Utah, and Puerto Rico.

8 I oppose centralization of this case, and with that, I
9 will commence. May it please the Court.

10 Judge Kennelly, I'm coming straight to you because
11 this is the first time in my entire life to argue for no
12 centralization in front of the JPML, and I will be using some
13 of the arguments that have been used so effectively against me
14 over the years as I try to do this.

15 There are three arguments to make in two quick
16 minutes.

17 Number one, urgency. Speed really is important here.
18 It's important for a number of reasons, including the fact that
19 there's an inherent amount of immense power that we've seen
20 exercised in elections and other places as well in the hands of
21 Google. And we believe that the legislators recognize the
22 importance of urgency here. We have tried to do what we think
23 the JPML has urged us to do before, and that is, consolidate
24 all of these cases. Even the two pending cases wanting to
25 intervene in Louisiana and South Carolina are seeking our

1 counsel as well, and that I'll represent Louisiana in that
2 intervention and ultimately South Carolina I expect as well.
3 So we're trying to consolidate as best as we can without
4 imposing on the JPML and all that it requires.

5 It's also important for the court to understand that
6 we've been intensely involved in this. We've got two years
7 going now because of all of the pretrial work. We took over 50
8 statements, equivalent to depositions, before filing the case.
9 We've got over two million documents. We've got documents and
10 information from 25 third parties at this point. We have won
11 the 1404 transfer motion because Google uses Texas as one of
12 its nexus points for all of its technology.

13 So within the framework of that argument, two,
14 substance. The *parens patriae* not covered here. We are
15 seeking to recover for individuals in a different sense. For
16 example, we want to disgorge the private data that's been
17 secured wrongly by Facebook.

18 Final point, three, clarification. Judge Jordan has
19 taken a strong look at this case, a strong active involvement.
20 He's issued a protective order, he's issued a 1404 motion.
21 We've got discovery under way, we've got -- documents have been
22 scheduled.

23 Thank you.

24 JUDGE CALDWELL: Questions for Mr. Lanier?

25 Judge Kennelly.

1 JUDGE KENNELLY: I have two, let me ask the first one,
2 and then I'll ask the other one.

3 The first one goes back to the questions I asked some
4 of the other folks, which are really more questions for you.

5 So I get that you're asking to break up and I get that
6 you're asking for disgorgement, but the complaint also says
7 you're asking for damages. And as I understand the *parens*
8 *patriae* part of the claim which has been described by some of
9 the other counsel, you're suing on behalf of natural persons,
10 quote-unquote, that's what the statute says, and you have to
11 carve out any business entities or anything like that.

12 So am I right -- so who are the -- what's the damage
13 to the natural persons in the 14 or so states that you
14 represent?

15 MR. LANIER: Your Honor, the damage falls by and large
16 into the civil protection actions that I'd emphasize to you
17 right now. In Texas it's the deceptive Trade Practices Act.
18 It says that an entity, like Google, cannot falsely
19 misrepresent that they're destroying everybody's individual
20 data and not selling it when, in fact, they are selling it and
21 they're not destroying it. And so we've got an action for
22 that. That's not found in any of the class actions that have
23 been sought. That is solely an individual distinct action.

24 Yes, sir.

25 JUDGE KENNELLY: So my question was what about

1 JUDGE CALDWELL: Hearing none, we have your argument,
2 and that concludes the matter MDL number 3010, and our
3 arguments for the day.

4 The panel will be in recess.

5 (Court adjourned at 11:20 a.m.)

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7 CERTIFICATION

8 I certify that the foregoing is a correct transcript
9 of the record of proceedings in the above-entitled matter to
10 the best of my skill and ability.
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14 /s/Debra M. Joyce
15 Debra M. Joyce, RMR, CRR, FCRR
16 Official Court Reporter
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August 3, 2021
Date